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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.**

In the Matter of)
)
Implementation of Section 255 of the)
Telecommunications Act of 1996)
)
Access to Telecommunications Services,)
Telecommunications Equipment, and)
Customer Premises Equipment)
by Persons with Disabilities)

WT Docket No. 96-198

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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

NOTICE OF PROPOSED RULEMAKING

REPLY COMMENTS SUBMITTED BY

TELECOMMUNICATIONS FOR THE DEAF, INC.

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I. INTRODUCTION

Telecommunications for the Deaf, Inc. (TDI) hereby submits these reply comments to the Federal Communications Commission in response to WT Docket No. 96-198. TDI is a national consumer organization that seeks to represent the interest of 28 million Americans who are deaf, hard of hearing, late-deafened, and deaf-blind. Celebrating the 30th anniversary of its founding this year, TDI's mission is to promote full visual access to entertainment, information, and telecommunications through consumer education and involvement, technical assistance and consulting, application of existing and emerging technologies, networking and collaboration, uniformity of standards, and national policy development and advocacy. We applaud the FCC for establishing this proceeding allowing us the opportunity to share our views.

In reviewing the submitted comments in the original Section 255 comment period ending June 20, 1998, one cannot help but notice the overwhelming and fairly unanimous voice from across America representing the consumer perspective. Over sixty (60) commenters submitted a relatively unified expression of specific consumer positions and concerns. This compares to approximately twenty-six (26) industry commenters. The fact that this many consumers from the national, state and local level have commented is significant. This proceeding is complex and difficult to understand at best, and the type of proceeding most often "left to the lawyers" to work out. A significant number of these consumer commenters took time to submit comments "on their own time" with no compensation, notably different from industry commenters. We hope you will agree this amount of consumer response on such a complex proceeding is noteworthy.

In our review of the submitted comments, we were pleased to see such unison in the consumer voice. At the same time, we were concerned to see a "continuing round" of comments from industry that lent the impression some of the industry commenters are still in a "form of denial" that Section 255 of the Telecommunications Act has indeed passed and been signed by the President. One can understand why this may be the case. There has been minimal "grassroots information" from government entities regarding what the Section 255 means for consumers. Twenty-nine months after this Act was signed, there is still no formal enforcement mechanism in place; thus consumers have generally not filed complaints to date. Lack of complaints hardly reflects that there aren't telecommunication access concerns, as you can clearly see by the record on this proceeding. It is fair to say for the average "grassroots" consumer there is lack of knowledge as to what this Act means for them in "real-life" terms. In the same regard, industry may be lacking the outcry that helps them remember this Act is enforceable today. This premise amplifies the need for clear, concise enactment by the FCC on Section 255 as soon as practicable.

As this proceeding is further deliberated, we ask that you keep in the forefront of your mind the FCC Chairman's strongly expressed commitment to ensure the telecommunication revolution benefits *all* Americans:

“We cannot ignore the needs of those with disabilities. We cannot create a society that leaves out the 26 million Americans with hearing disabilities or the 9 million with sight disabilities or the 2.5 million Americans with speech disabilities...it’s just too much a part of America...too important a segment of the American society...we must strive to ensure that advances in technology benefit everyone.” (William Kennard)

II. FCC AUTHORITY

A. Scope of Rulemaking Authority

Practically all of the commenters acknowledged the scope of rulemaking authority the Access Board and the FCC has. We thus conclude that Congress gave responsibilities both to the Commission and to the Architectural and Transportation Barriers Compliance Board (“Access Board” or “Board”) to carry out the mandate of Section 255. The Commission possesses exclusive authority with respect to complaints under Section 255(f). Section 255(f) authorizes the Commission to work in conjunction with the Access Board to develop guidelines for accessibility of telecommunications equipment and customer premises equipment (CPE).

B. Enforcement Authority

Commenters have confirmed the Commission possesses authority to adopt rules to implement the requirements of the Communications Act. The FCC has cited several statutory provisions that authorize the Commission to adopt rules it deems necessary or appropriate in order to carry out its responsibilities, so long as those rules are not otherwise inconsistent with the Act or other law. Specifically, Section 4(i) of the Communications Act explicitly permits the Commission to “perform any and all acts, make such rules and regulations, and issue such orders, not inconsistent with [the] Act, as may be necessary in the execution of its functions.”¹ Section 201(b) provides that “the Commission may prescribe such rules and regulations as may be necessary in the public interest to carry out the provisions of this Act.”² Section 303(r) provides that the Commission may “make such rules and regulations and prescribe such restrictions and conditions, not inconsistent with law, as may be necessary to carry out the provisions of this Act”³

C. Access Board Equipment Guidelines

¹ 47 U.S.C. § 154(i).

² 47 U.S.C. § 201(b).

³ 47 U.S.C. § 303(r).

TDI notes those commenting on behalf of consumers strongly urged the Commission to adopt the Access Board's Equipment Guidelines. They further encouraged the Commission to apply these guidelines, where appropriate, to telecommunication services as well. On the other hand, those that commented representing the manufacturing industry expressed concerns with certain aspects of the Board's guidelines, which they described as "overly prescriptive" or "rigid." In practically the same heart beat, the industry asked for clear guidance, yet the ability to create innovative solutions.

Issues of particular concern to us noted by a few manufacturers were the sections on volume control amplification (Section 1193.43 paragraph (e)) and TTY compatibility (Section 1193.51). Section 255 clearly protects manufacturers from having to do anything that is not currently "readily achievable," thus we feel that changes to these sections are not merited based on the discussion presented. We will cover these issues in further detail in our comments under readily achievable.

TDI urges the FCC to stand strong and incorporate the Access Board's guidelines in their entirety, along with additional standards that cover telecommunications services, and the enforcement/complaint procedure aspects of Section 255. It is not surprising that although industry failed to convince the Access Board during their proceeding that these changes were necessary, they are now trying to convince the Commission. The Commission needs to acknowledge that Congress clearly intended that the FCC's actions be consistent with the Board's guidelines. It is clearly sound public policy to issue telecommunications equipment and customer premises equipment rules that are consistent with the Board's guidelines. The Act specifically gives the Access Board responsibility to review the guidelines periodically and revise them as needed. Any needed changes can be done by the Board and the FCC at this time. As the FCC and the Access Board have both acknowledged, "Congress clearly intended that the FCC's actions be consistent with the Board's guidelines" (FCC NPRM/Access Board order). We strongly agree with the FCC that "it would be appropriate [to] adapt the Board's guidelines to develop a coordinated approach to accessibility for both services and equipment." (FCC NPRM)

III. SCOPE OF SECTION 255's COVERAGE

A. Product vs. Product Line

TDI remains firm on the position we stated in our original comments. We actually feel our position is not that far apart from what some of the more reasonable industry commenters' portrayed as in the "consumers' best interests."

Thus, TDI agrees with the FCC's and Access Board's analysis that Section 255 requires manufacturers and service providers to consider providing accessibility features in each product they develop and offer to the marketplace as a first step. In designing, developing and fabricating a product or service, manufacturers and providers of services need to consider

incorporating the usability and accessibility factors, and/or compatibility factors, if it is readily achievable to do so. TDI acknowledges that at times it may not be feasible nor practical to incorporate all potential access features into one product. In this case, it may be reasonable to consider products **“functionally similar”** if they provide **similar features and functions** and are **close in price**. Because “readily achievable” is a relatively low standard, it is possible that more access overall will be achieved with this approach. We recognize that this might mean when looking at each product as a whole, one might just see “superficial access” that affects those with disabilities. However, if done as promised or noted by manufacturers, there will be substantial feature offerings across product lines. We are comfortable with this if the final result of implementing this approach **increases the overall accessibility of the provider's offerings**. A number of industry commenters portrayed this conclusion. However, we do feel a manufacturer should not be able to bypass incorporating accessible features if it is readily achievable solely because they already have one product that is accessible. They must still consider in their determination if it is also readily achievable and practicable to incorporate accessible features in each and every new product. And if it is not feasible to make the product accessible, they still must explore the compatibility factors.

B. Telecommunications vs. Enhanced Services

TDI strongly feels, along with practically all the consumer commenters, that the Commission will need to devise a new means of determining whether a service is “enhanced” or “adjunct-to-basic” to make certain “mainstream service access” is incorporated in this proceeding. Clearly, one way or another, the consumer needs to be able to secure basic use of the telephone system and secure information necessary to complete their call. One would be kidding oneself in trying to state that services such as voice mail and automated voice response or interactive systems have not become commonplace in today’s telecommunication operations. In the employment world, deaf and hard of hearing TTY users constantly face the obstacle of inaccessible voice mail and automated voice response systems. The President’s Committee on Employment of People with Disabilities clearly illustrated the importance of this access in order to have impact on the “lopsided” unemployment statistics that illustrate deaf and hard of hearing consumers are still facing obstacles. It is unthinkable that Congress would intend to leave out from inclusion of coverage such basic fundamental occurrences in our existing telecommunications structure. TTY users face inaccessible audiotext systems in everyday communications for business, personal and civic purposes. These audiotext systems require quick responses to choose options. Commenters confirmed they have had daily encounters with inaccessible audiotext systems. This access must be realized either via this proceeding or the Telecommunications Relay Services proceeding (CC Docket No. 98-67). Our impression of both these proceedings as currently drafted is that this access is being denied on both fronts!

We strongly urge the FCC to take advantage of any and all “vehicles” it has for allowing inclusion of services such as audiotext systems and voice mail to be classified within the category of “adjunct-to-basic” services under Section 255. At minimum, we feel commenters

clearly spelled out that voice mail and audiotext systems must be included for coverage under Section 255, because other forms of accessing such systems are many years away from becoming functionally equivalent. The test of coverage should be whether access to a service is needed to achieve effective communication by people with disabilities.

C. Coverage of Telecommunications Equipment & Customer Premises Equipment

After reviewing comments, we note substantial support for our originally stated position that the FCC should continue with its intent to recognize the definition of telecommunications equipment includes “software integral to such equipment (including upgrades).” (FCC NPRM) TDI supports the Board’s, FCC’s and commenters’ view that the focus of Section 255 should be on functionality, with software as simply one method of controlling telecommunications functions. TDI encourages the FCC to confirm that when the software has a telecommunication purpose, it should be covered, since the software serves to provide electronic operating instructions.

IV. Nature of Statutory Requirements

A. Definition of “Disability”

TDI concurs with TIA’s request that the ADA definition of “disability” be adapted to include “those persons with functional limitations that affect the ability to use telecommunications.” We do however feel this is covered in the FCC’s proposal to use the Access Board’s list of categories of common disabilities:

-- to “principally address the access needs of individuals with disabilities affecting hearing, vision, movement, manipulation, speech, and interpretation of information.”
(Access Board Order)

B. “Accessible to and Usable by”

Section 255 clearly requires that equipment and telecommunications services be “accessible to and usable by individuals with disabilities, if readily achievable.” The Access Board guidelines define “usable” as meaning that “individuals with disabilities have access to the full functionality and documentation for the product, including instructions, product information (including accessible feature information), documentation, and technical support functionally

equivalent to that provided to individuals without disabilities,” and the guidelines define “accessible” as compliance with Sections 1193 of the rules.⁴

TDI notes comments were mixed on combining the two concepts, accessibility and useability. Those who understood the rationale behind why consumers wanted this distinction to remain, supported the separation of the two terms. TDI remains firm on its original stated desire to keep the two concepts, accessibility and usability separate. Each has an independent objective that should be treated as such. We urge the Commission to maintain the distinction between the two terms as presented in the Access Board’s guidelines.

1. Telecommunication Service Issues

In reference to telecommunication services, the FCC sought examples where service itself has characteristics that render accessibility difficult. TDI and other commenters noted that when a TTY caller dials a number that has been disconnected, changed, or is no longer in service, they receive an inaccessible voice recording. Technology already exists to allow for a TTY intercept message and is being offered in limited, isolated parts of the country. TDI encourages the FCC to clarify whether TTY intercept messages are required in instances as stated above under Section 255. TDI and a number of commenters strongly urged the FCC to clarify whether telecommunication service providers are required to offer direct TTY access for essential support services such as customer service and help desk lines. A number of commenters along with TDI strongly encouraged the requirement of captioning on tutorial videotapes when included in product shipments. We commend the FCC for seeking comment on criteria that would constitute service accessibility. We urge you to clearly indicate your position on the requirement of TTY intercept messages, and direct TTY access to telephone providers, where feasible.

2. Peripheral Devices or CPE : Specialized Customer Premises Equipment

Upon reviewing comments, TDI concludes that most commenters agreed that although the Access Board has created a distinction between peripheral devices and specialized customer premises equipment (SCPE) for the purpose of considering some SCPE as a subset of a CPE (thus with separate obligations under the Act), we concur with others that it is not necessary to distinguish between peripheral devices and specialized CPE for purposes of applying Section 255 (d) for compatibility purposes.

3. “Commonly Used”

⁴ Section 1193.33 describes information, documentation, and training measures; Section 1193.37 specifies pass-through of information required for access; Section 1193.39 bars net reductions in accessibility; Section 1193.41 describes accessible input, control, and mechanical functions; and Section 1193.43 describes accessible output, display, and control functions. 36 C.F.R. §§ 1193.33, 1193.37, 1193.39, 1193.41, 1193.43.

Many commenters noted the need for a controlled list that would identify for manufacturers what exactly is considered “commonly used” by individuals with disabilities with which they would need to be compatible. The term “commonly used” by those with disabilities comes directly from the statute. We understand the FCC’s intent is to clarify for industry what products would be classified as “commonly used by those with disabilities,” including devices with which a product needs to be compatible if it is not readily achievable to make it accessible.

It is true that devices offered in statewide equipment distribution programs for persons with disabilities do include many, but not all, of the devices that are commonly used by individuals with disabilities for accessing telecommunications. However, this alone would not be a complete listing. Further, it would be an error to determine whether the CPE or peripheral device may be deemed to be commonly used by persons with disabilities based on whether it is “affordable and widely available” as many specialized products are overly costly and available via limited distribution. Perhaps a technical assistance document identifying various potential devices could be developed after consulting all the various affected consumer groups for input on products their constituents use. We feel the list should be broad rather than micro-specific to encompass all the majority connectivity and compatibility concerns. Anything used by the mainstream public, and already considered during the design and development period for connectivity or compatibility purposes, need not be considered.

4. Compatibility

The Access Board lists five criteria for determining compatibility, subject to applicability:⁵

- External access to all information and control mechanisms;
- Connection point for external audio processing devices;
- Compatibility of controls with prosthetics;
- TTY connectability; and
- TTY signal compatibility.

TDI was a bit disappointed to note remarks indicating lack of desire to expend resources to accommodate TTY equipment that is “commonly used” by millions of individuals and agencies nationwide by TIA, Motorola and SBC Communications. Our understanding is these commenters want FCC to ensure that Section 255’s compatibility requirement is not applied in a way that impedes the introduction of new innovations in technology. Specifically, these

⁵ 36 C.F.R. § 1193.51.

commenters state the FCC “should not encourage perpetuation of outdated TTY technology by requiring compatibility indefinitely.” (Generally, TIA at pg. 39-41; Motorola at pg. 46-49.) They admit this is a “sensitive and difficult issue” where “careful thought needs to be given to any phase out and phase in of comparable technologies.” (Motorola at pg.48.) SBC Communications states there is a chance “manufacturers and providers would rest upon these accepted means [to provide TTY connectivity and compatibility] and would be reluctant to develop new technologies for fear that they would not be FCC approved.” (SBC Communications at Part E.)

First, TDI agrees with commenters who state, “the FCC should ensure that Section 255’s compatibility requirement is not applied in a way that impedes the introduction of new innovations in technology.” (Motorola at pg. 47) However, our understanding is that the compatibility section of the regulations would only be triggered if the manufacturer determines it is not “readily achievable” to incorporate text telephone accessibility in their product designs per sections 1193.41 and 1193.43 of the guidelines. Clearly, the first layer of designing, fabricating and manufacturing an accessible product remains firmly in place, allowing these manufacturers the ability to innovate as they so desire. The regulations as currently drafted in no way prevent manufacturers from expending resources in this regard.

Second, exclusion or a “phase out” of a vast, existing network of equipment can only be realized after a viable, well-tested solution to replace it is found, and an affordable means for all those with disabilities to acquire it is identified. Currently, TTYs are being distributed at little or no cost in at least 31 states in our country. Further, many local, state and federal agencies, our state relay infrastructure, as well as businesses such as hotels, hospitals, 911 centers, emergency service facilities, and transportation facilities have purchased TTY equipment to comply with the Americans with Disabilities Act (ADA). One could not expect all these individuals, government entities and private entities, to proclaim their equipment obsolete when a new solution hasn’t even been identified and tested. Ironically, one of the commenters who wants to remove the requirement for TTY connectivity and compatibility announced in their comments that they intend to offer direct TTY access in their 50 call centers in the US by the third quarter of 1998. This is truly commendable. TDI surely hopes the intent is for their call center network to be compatible with their own distributed equipment in the field.

Third, TDI has actively participated in the CTIA TTY Wireless Solutions Forum meetings held in Washington, DC, deliberating on solutions for wireless TTY access to E-911 as required by the FCC. This proceeding is clearly working under the assumption that both backward compatibility and technological improvements are needed. Any solutions that are created must ensure that the vast TTY user population will have compatibility with new emerging technology. We certainly hope that we are not all just biding time at these meetings just to “go on record” to state an effort to find solutions was made, without a “good faith effort” by engineers back at their drafting benches and test labs to find compatibility solutions.

Fourth, TTY connectivity via a 2.5mm jack, RJ11 connector, or RJ45 jack is a relatively simple matter, and technically feasible. Our impression from Forum 6 of the CTIA TTY Wireless Solutions gathering is progress is being made in the connectivity area. If TTY signaling compatibility proves to be technically infeasible, the compatibility section also allows the industry to determine it is not readily achievable to accomplish. Therefore, we conclude there is no justification to removing TTY compatibility requirements at this time.

TDI firmly supports adoption of the proposed five criteria as a starting point for determining compatibility. We recognize that as technology evolves and changes, review of the guidelines and enforcing rules will be needed. An example might be, as video telephony moves into mainstream use, video equipment compatibility will become important to those reaching out to use this mode of communications. Congress has wisely incorporated statutory language instructing the Access Board to periodically review its guidelines.

As an aside, TDI wishes to comment on mention by at least one commenter that a digital TV network will be enabled requiring America's TV viewers to purchase new televisions by the year 2006. We are hard pressed to believe the television viewers will tolerate this forced switch. Similarly, we feel that as long as POTS telephones are still supported so should TTYs be supported. TDI has seen no evidence that creative solutions have been fully explored in the area of digital wireless TTYs. A large manufacturer claimed in their comments that digital telephones would not exist today if Section 255 existed when digital phones were introduced. We wish to go on record refuting any notion that Section 255 will hinder innovation for the masses. This is as ludicrous as saying that voice recognition applications would not be in use today because those with speech impairments would not be able to use this innovation in phones that allow you to speak and dial. We know for a fact this isn't the case, as new telephones that fit this description have emerged since Section 255 was signed.

C. "Readily Achievable"

1. General

TDI strongly believes the FCC should only depart from the ADA "readily achievable" definition where it is necessary to do so for the sole purpose of applying that analysis to telecommunications products and services.

ADA defines readily achievable as:⁶

"easily accomplishable and able to be carried out without much difficulty or expense."

⁶ 42 U.S.C. § 12181(9).

We remind the FCC that “readily achievable” in relation to “undue burden” is a relatively low standard. We believe the cost concerns are already built into this definition. We believe that this broad definition is applicable to telecommunications equipment and services.

2. Telecommunications Factors

a. Technical Feasibility

TDI agrees with those commenters who stated implementation of an accessible feature has to be “technically feasible” for it to occur. However, we agree with the Access Board’s analysis that “technological feasibility is inherent in the determination of what is readily achievable....”⁷ Although feasibility appears to us as an obvious element of “readily achievable,” we can agree that identifying it as a separate analytical component will not hurt, as long as the manufacturer is required to show proof of technical infeasibility if asked.

b. Expense

TDI believes that the cost of implementation is already considered within the readily achievable definition. However, as many commented indicated, the parameters as to what can be considered within the cost analysis have not been defined. TIA argued that cost consideration should include cumulative costs as in barrier removal. They stated that the Access Board’s definition appears to require independent “readily achievable” evaluation for each accessibility feature. Precisely they stated, “time and money spent developing accessibility features are necessarily diverted from other innovation...development of accessibility features is costly in terms of development time, which could delay introduction of new products into the market.” (See TIA comments pg. 46) TDI is concerned with the above statements, as they indicate that innovation for those with disabilities is somehow a substandard need in relation to overall product development in order to serve their market. One would hope that the industry recognizes the intent of Section 255 is to consider the disability market as part of mainstream products, not as an inferior subset.

c. Practicality

In allowing practicality as a component of the “readily achievable” definition, the Commission indicated their intent is *not to* “sanction unfounded arguments that the addition of such features would make products less desirable to mass markets. Indeed, it may frequently be the case that accessibility features will make a product more desirable to mass markets.”

⁷ Access Board Order, 63 Fed. Reg. at 5615.

In a discussion on the “fundamental alteration” concept, one commenter illustrated an example of a combination of a vibrating pager and zoom lens capabilities all in one unit for factory workers in a noisy environment. The commenter assumes that the factory workers would not want to be bothered with the 10 second delay for the zoom capability. (See TIA comments pg. 50.) Couldn’t this device be designed to disable the zoom capabilities feature the same way pagers can disable the audio signal? Isn’t it possible that many individuals might very much enjoy zoom capabilities for enhanced readability? We find some of the arguments similar to when the TV industry was deliberating on closed captioning chip capabilities. Now many consumers who do not have hearing loss find this a fabulous feature. At the time, the industry did not think this would be the case. Recently, the community has seen an increase in open captioned movies offered to the mainstream public. Those who did not need the captions did not even flinch when they learned they were viewing an open captioned showing, yet the industry loudly indicated this would “fundamentally alter” the nature of this good, thus destroying the experience for the average viewer. This has not been the reception by the public witnessing these viewings of late.

3. Cost Recovery

TDI, along with numerous other commenters stand firmly opposed to the inclusion of a cost recovery factor as currently described in the readily achievable definition. Congress has already provided a cost limitation for telecommunications manufacturers or service providers within the readily achievable definition of “...able to be carried out without much difficulty or expense.” Manufacturers of telecommunications equipment or customer premises equipment (CPE) are obligated to ensure that the equipment is designed, developed and fabricated to be accessible to and usable by individuals with disabilities, only if readily achievable, and providers of telecommunications services shall ensure that the service is accessible to and usable by individuals with disabilities, only if readily achievable. TDI notes even TIA “disagrees that cost recovery is an appropriate consideration.” (See TIA comments pg. 46.)

We wish to note, “readily achievable” is a relatively low standard, and cost recovery in *any* manufactured product is expected business practice for survival. The industry would be hard pressed to prove this is unique to implementing accessibility by the telecommunications industry over any other entity that has had to implement access. Including the cost recovery factor as a part of Section 255 has the potential impact of destroying all progress we have made in the disability movement to date.

We believe that any costs incurred from providing accessible features should be borne by all consumers who purchase that product or service. This is really not unique. Commenters argued the telecommunications market is very competitive. However, as all manufacturers in question are obligated to make such provisions, the impact should be spread evenly amongst everyone.

4. Fundamental Alteration

TIA proposes the concept of “fundamental alteration” be added to the “readily achievable” factors. (See TIA comments pg. 47-48.) This commenter states that the FCC does not expressly recognize this factor from the ADA. It may help to note, that the Access Board’s guidelines do mention this factor as a readily achievable factor in their Appendix at Subpart A- General, Section 1193.3 Definitions, Readily Achievable (d). The Access Board notes that, “fundamental alteration means a change in the fundamental characteristic of the product.” TDI can support the addition of this concept as long as it is applied to the characteristics of the product, not the characteristics of a narrow targeted market that discriminates against users as exemplified in the above discussion of a pager with zoom capability. The Access Board uses the example of a large visual display fundamentally altering a small pager designed to fit in a pocket, but zoom capabilities in the small pager as discussed in TIA’s example would not necessarily fundamentally alter that small pager’s size characteristic. So in allowing the “fundamental alteration” concept to be added, we would want to make sure there is a clear explained as to how it would be appropriately applied.

V. COMPLAINT PROCESSES

A. Fast Track Problem Solving Phase & Complaint Mechanisms

TDI remains confident after reviewing the comments that a Fast Track approach has merit given additional time to respond. Our original comments along with many of the commenters suggest a longer time for response to make implementation and the quality of response more realistic.

B. Use of Traditional Dispute Resolution Processes

1. Informal & Formal Dispute Resolution Process

TDI continues to endorse, along with many of the other commenters, the following FCC proposals:

--not to impose a standing requirement for complaints under Section 255, whether by virtue of being a person with a disability, being a customer of the entity that is the subject of the complaint. However, we can concur with those who expressed concern with industry vs. industry complaints. We do feel there is merit in having complaints come from those with disabilities and those representing individuals with disabilities for this reason.

--not to establish any time limit for the filing of a complaint under Section 255. Some commenters want to impose a 5 or 6 month statute of limitations to avoid “stale” complaints. We feel this limitation is far too stringent because one cannot be certain when a discovery of

inaccessibility will be made, especially if the user becomes disabled during the ownership of a device.

--adoption of a 15-calendar-day reply period, subject to Commission adjustment in specific cases, but acknowledge proper staffing at the FCC needs to be set up to be able to handle Section 255 complaints.

--not to require a filing fee for informal resolution of complaints, or for formal resolution of complaints directed at equipment manufacturers and service providers that are not common carriers. Although the FCC is required to impose a filing fee for formal complaints directed against common carriers, waivers have already been granted for complaints filed under Title IV of the ADA for Telecommunication Relay Service concerns. It is clear that for Section 255 waiving the fee would be in the public interest.

2. Alternative Dispute Resolution Process

TDI continues to support the availability of alternative dispute resolution (ADR) procedures such as arbitration, conciliation, facilitation, mediation, settlement negotiation, and other consensus methods of dispute resolution for resolving Section 255 complaints not resolved under the fast-track process. However, we do not feel that ADR should solely replace all means of complaint resolution.

VI. CONCLUSION

In closing, TDI appreciates the opportunity to submit reply comments in this important proceeding and urges the FCC to implement their final rules for Section 255 as soon as is practicable. The FCC had statutory responsibility to implement rules within 24 months. Since this time frame has already passed since the enactment of the Telecommunications Act of 1996, we urge you to act promptly in issuing final rules and stand firm to the intent of this landmark initiative.

Respectfully submitted,



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